

So Ordered.

Dated: October 11th, 2024



Frederick P. Corbit

Frederick P. Corbit
Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

IDEAL PROPERTY INVESTMENTS LLC,

Debtor.

CASE NO. 24-01421-FPC11

ORDER AUTHORIZING (I) SALE OF
DEBTOR'S REAL PROPERTY FREE AND
CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES, AND OTHER
INTERESTS PURSUANT TO 11 U.S.C.
§363(f), ASSIGNMENT OF LEASES
PURSUANT TO §365; AND
DISBURSEMENT OF PROCEEDS
(ESCONDIDO)

THIS MATTER having come before the court on Debtor's Motion for Order Authorizing
Sale of Real Property Free and Clear of Liens, Claims, Encumbrances, and Other Interests
Pursuant to 11 U.S.C. § 363(f); Assumption and Assignment of Leases Pursuant to §365 and
Disbursement of Proceeds and Use of Disputed Cash Collateral (the "Sale Motion") (ECF No.
79), filed by Ideal Property Investments LLC ("IPI" or the "Debtor"). The Sale Motion requests
authority to sell the certain real property identified in the Motion free and clear of all liens,

claims, interests, and encumbrances pursuant to 11 U.S.C. § 363(f) as follows: 530 Oppen Street,

ORDER APPROVING MOTION TO SELL REAL PROPERTY - 1

DBS | LAW

A Professional Limited Liability Company
155 NE 100th Street, Suite 205 Seattle, WA 98125
p: 206.489.3802 | f: 206.973.8737

1 Escondido, California (the “Property”), also legally described as:

2 THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY
3 OF ESCONDIDO IN THE COUNTY OF SAN DIEGO, STATE OF
4 CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:
5 LOTS 3 AND 4 IN ESCONDIDO TRACT NO. 151, IN THE CITY OF
6 ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA,
7 ACCORDING TO MAP THEREOF NO. 6396, FILED IN THE OFFICE OF
8 THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 17, 1969. APN:
9 228-420-35-00

10 (the “Escondido Property”).

11 The proposed purchaser of the Escondido Property is Chris Loughridge, Trustee of the
12 Chris Loughridge Trust dated November 27, 2001, as to an 85 percent undivided interest, and
13 Brent Jordan Bohlken, Trustee of the Brent Jordan Bohlken Living Trust dated May 23, 2022, as
14 to a 15 percent undivided interest, together as tenants in common (the “Purchaser”). The Sale
15 Motion further seeks to assume and assign leases (the “Leases”) related to the Escondido
16 Property with the following tenants: Sound-Crete Contractors, Inc., a California Corporation; and
17 Progressive Design Playgrounds, a California Corporation (collectively, the “Tenants”). The Sale
18 Motion also seeks authority to use and disburse the proceeds of the sales of the Escondido
19 Property.

20 The Sale Motion was made pursuant to 11 U.S.C. §§ 361, 363(c), 363(e), 363(f), and
21 365, Fed. R. Bankr. P. 2002, 2014, 6004, 9013 and 9014 (any related local rules). The Court
22 considered the Sale Motion, the supporting Declaration of Joseph P. Fanelli with exhibits (the
23 “Fanelli Declaration”), the response, if any, filed by other parties in the case, and the
24 representations of counsel. Based on the foregoing, the Court hereby

25 FINDS and DETERMINES that:

26 A. The Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and
1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N). Venue

1 is proper under 28 U.S.C. §§ 1408 and 1409.

2 B. As evidenced by the Certificates of Service filed on September 25, 2024, and
3 September 26, 2024 (ECF Nos. 88 and 89), the Debtor provided proper, timely, adequate and
4 sufficient notice of the Sale Motion and hearing in accordance with 11 U.S.C. §§ 102(l), 363,
5 and 365, Fed. R. Bankr. P. 2002, 6004, 9013 and 9014, and Local Bankruptcy Rule 2002-1.
6

7 C. The Debtor has demonstrated a sufficient basis and the existence of exigent
8 circumstances requiring it to sell and/or assume and assign the Leases under Section 363 and 365
9 of the United States Bankruptcy Code 11 U.S.C. §§ 101 et seq. as amended (the “Bankruptcy
10 Code”), and such actions are appropriate exercises of the Debtor’s business judgment. Approval
11 of the Sale Motion and of the Standard Offer, Agreement and Escrow Instructions for Purchase
12 of Real Estate attached as Exhibit A to the Fanelli Declaration, as modified by the addenda
13 attached as Exhibit B to the Fanelli Declaration (Exhibits A and B to the Fanelli Declaration
14 being collectively the “PSA”) entered into by and between the Debtor and Purchaser, and the
15 consummation of the transactions contemplated thereby, are in the best interests of the Debtor,
16 its creditors, and its estate.
17

18 D. As set forth in the Fanelli Declaration, the Debtor has marketed the Escondido
19 Property and conducted the sale processes in a non-collusive, fair, and good faith manner.
20

21 E. Approval of the sale of the Escondido Property and consummation of the sale of
22 the Escondido Property at this time is in the best interests of the Debtor, its creditors, the
23 bankruptcy estate and other parties in interest.

24 F. The Debtor may sell the Escondido Property free and clear of all interests, liens,
25 claims and encumbrances of any kind or nature whatsoever because, in each case, one or more of
26 the standards set forth in 11 U.S.C. § 363(f)(1)-(3), (5) has been satisfied. Those non-debtor

1 parties with interests in the Debtor's assets who did not object, or who withdrew their objections,
2 to the sale or the Sale Motion are deemed to have consented pursuant to 11 U.S.C. §§ 363(f)(2)
3 and 365.

4 G. Specifically, with regard to senior secured lender Socotra (as defined in the
5 Motion), it has consented to the sale pursuant to 11 U.S.C. §§ 363(f)(2), subject to a finding that
6 its debt is oversecured, fully cross-collateralized, and its receipt of \$3.9M of the proceeds paid at
7 closing directly from escrow with the balance of its debt remaining secured as a first position
8 deed of trust on the Hayward Property (as defined in the Motion).

9 H. With respect to First Fed (as defined in the Motion), the Debtor has met the
10 standard provided for in § 363(f)(5) as there are legal and equitable proceedings in Washington
11 that could compel a junior lienholder to accept a money satisfaction of such interest. RCW
12 61.24.080, RCW 7.60.260. First Fed is adequately protected by having its interest attach to the
13 cash proceeds of the sale ultimately attributable to the Escondido Property in which it claims an
14 interest.

15 I. Those non-debtor parties with interests in the Debtor's assets who did object fall
16 within one or more of the other subsections of 11 U.S.C. §§ 363(f) and 365 and are adequately
17 protected by having their interests, if any, attach to the cash proceeds of the sale ultimately
18 attributable to the property against or in which they claim an interest.

19 J. The agreement for the sale of the Escondido Property was negotiated, proposed,
20 and entered into by Debtor and the Purchaser without collusion, in good faith, and from arm's-
21 length bargaining positions. Neither the Debtor nor the Purchaser has engaged in any conduct
22 that would cause or permit the agreements or the sales to be avoided under 11 U.S.C. § 363(n).
23
24
25
26

1 K. The Purchaser is acting, with respect to the agreements and this Order, as good
2 faith purchasers as that term is used in the Bankruptcy Code and the Purchaser(s) is/are entitled
3 to the protections set forth in 11 U.S.C. § 363(m).

4 L. The Purchaser is not an “insider” of the Debtor as that term is defined in 11
5 U.S.C. § 101.
6

7 M. The consideration provided by the Purchaser for the Escondido Property (i) is fair
8 and reasonable, (ii) is the highest or otherwise best offer for the Escondido Property, (iii) will
9 likely provide a greater recovery for Debtor’s creditors than would be provided by any other
10 practical available alternative, and (iv) constitutes reasonably equivalent value and fair
11 consideration for the Escondido Property.
12

13 N. The transfer of the Escondido Property to Purchaser will be a legal, valid, and
14 effective transfer of the Escondido Property, authorized pursuant to the Bankruptcy Code, and
15 will vest Purchaser with all right, title, and interest of Debtor in the Escondido Property free and
16 clear, to the fullest extent permitted under the Bankruptcy Code or other applicable law, of all
17 liens, claims, interests, and encumbrances, including but not limited to claims otherwise arising
18 under doctrines of successor or vicarious liability.

19 O. Upon entry of this Order, Debtor may sell the Escondido Property free and clear
20 of all liens, claims, interests, and encumbrances because, in each case, one or more of the
21 standards set forth in 11 U.S.C. § 363(f)(1)-(3), (5) has been satisfied, including that, as provided
22 herein, any remaining disputed liens shall attach to the proceeds of the sale the Escondido
23 Property in the same order of priority with the same validity, force, and effect as existed prior to
24 such sale. The holders of liens, claims, interests, or encumbrances who did not object, or who
25 withdrew their objection, to the sales are deemed to have consented pursuant to 11 U.S.C. §
26

1 363(f)(2). Those holders of liens, claims, interests or encumbrances who did object fall within
2 one or more of the other subsections of 11 U.S.C. § 363(f)(1)-(3), (5).

3 P. Debtor may pay all costs of closing the Escondido Property, including taxes, fees,
4 utilities, commissions, and customary real estate closing costs as reflected in the draft settlement
5 statement attached to the Fanelli Declaration. Socotra will be paid \$3,900,000 as partial payoff
6 of its debt with the remaining amount of its debt to be secured by whatever liens may existed as
7 of the Petition Date, in the same validity, perfection, and priority as such liens existed as of the
8 Petition Date, and such liens (to the extent they exist). Notwithstanding anything to the foregoing
9 in this Order, nothing in this Order is a determination of validity, perfection, or priority of any
10 liens that may exist in favor of Socotra, and any and all rights to object to or challenge Socotra's
11 liens is preserved.
12

13 Q. The Debtor may assume the Leases identified in the PSA and assign each of them
14 to Purchaser pursuant to Sections 363 and 365 of the Bankruptcy Code and this Order
15 notwithstanding any anti-assignment clause or other provision in the Leases granting rights or
16 privileges personal to the Debtor or otherwise tending to limit Purchaser's use, enjoyment, or
17 benefit of the full panoply of rights and privileges under such Leases, as provided by Section
18 365(f) of the Bankruptcy Code. The assumption and assignment of the Leases is in the best
19 interest of the Debtor and its estate, creditors, and other parties in interest, representing the
20 reasonable exercise of sound and prudent business judgment by the Debtor. Purchaser and the
21 Debtor have provided evidence of adequate assurance of future performance by Purchaser under
22 each of the Leases to the non-debtor counterparties. The Debtor is assuming and assigning only
23 the Leases at this time and the Debtor retains the right to assume or reject any executory contract
24 or unexpired lease to which it is a party in addition to the Leases. The Debtor (i) has cured, or
25
26

1 has provided adequate assurance of cure, of any default existing prior to the date hereof under
2 any of the Leases within the meaning of 11 U.S.C. § 365(b)(1)(A), and (ii) has provided
3 compensation or adequate assurance of compensation to any party for any actual pecuniary loss
4 to such party resulting from a default prior to the date hereof under any of the Leases, within the
5 meaning of 11 U.S.C. §365(b)(1)(B).
6

7 NOW, THEREFORE, it is hereby ORDERED that:

8 1. The Sale Motion is GRANTED.

9 2. Debtor is authorized to sell the Escondido Property to Purchaser on the terms
10 described in the Sale Motion and the Fanelli Declaration.

11 3. All objections to the Sale Motion, if any, that have not been withdrawn, waived,
12 or settled, are hereby overruled on the merits.
13

14 4. The purchase agreement for the sale of the Escondido Property attached as
15 Exhibits A and B to the Fanelli Declaration is APPROVED.

16 5. Pursuant to 11 U.S.C. § 363(f), the transfer of the Escondido Property to the
17 Purchaser constitutes a legal, valid, and effective transfer of the Escondido Property, and shall
18 vest Purchaser with all right, title, and interest of Debtor in and to the Escondido Property free
19 and clear of all liens, claims, interests, and encumbrances of any kind or nature whatsoever. All
20 liens, claims, interests, and encumbrances that existed prior to the sale closing shall attach to the
21 proceeds of the sale in the order of their priority, with the same validity, force, and effect that
22 existed prior to the sale.
23

24 6. This Order shall be binding upon and shall govern the acts of all entities,
25 including without limitation, all filing agents, filing officers, title agents, title companies,
26 administrative agencies, governmental departments, secretaries of state, federal, state, and local

1 officials, and all other persons and entities who may be required by operation of law, the duties
2 of their office, or contract, to accept, file, register, or otherwise record or release any documents
3 or instruments, or who may be required to report or insure any title or state of title in or to the
4 Escondido Property purchased pursuant to this Order. Each and every federal, state, and local
5 governmental agency or department is hereby directed to accept for filing and/or recording any
6 and all documents and instruments necessary and appropriate to consummate the transactions
7 contemplated by this Order.
8

9 7. The purchase agreement attached as Exhibits A and B to the Fanelli Declaration
10 and any related documents may be modified, amended, or supplemented in a writing signed by
11 the parties thereto, and in accordance with the terms thereof, without notice to or order from this
12 Court, provided that any such modification, amendment, or supplement does not have a material
13 adverse effect on the bankruptcy estate.
14

15 8. As provided in Fed. R. Bankr. P. 6004(h) and notwithstanding Fed. R. Bankr. P.
16 7062, this Order shall be effective and enforceable immediately upon entry. Time is of the
17 essence in closing the sales of the Escondido Property and Debtor intends to close these sales as
18 soon as possible. Therefore, the stay provided for under Fed. R. Bankr. P. 6004(h) or 7062 shall
19 not apply.
20

21 9. The Debtor will distribute \$3,900,000.00 at closing directly from escrow in partial
22 satisfaction of Socotra's claim with the balance attaching to its lien on the Hayward Property as
23 adequate protection for Socotra pursuant to 11 U.S.C. § 363.

24 10. With respect to the Socotra distribution approved herein, any and all objections
25 and challenges to such distribution, including without limitation, with respect to the validity,
26

1 amount, or priority of its claimed security interest with respect to such distribution, or the right to
2 claw-back the same, are hereby preserved, notwithstanding 11 U.S.C. §549.

3 11. The lien of First Fed will attach to net sale proceeds received by the bankruptcy
4 estate subject to any cash collateral order(s) entered by this Court.
5

6 12. The Court retains jurisdiction and power with respect to all matters arising from
7 or related to the implementation and interpretation of this Order.
8

9 /// END OF ORDER ///

10 Presented by:

11 DBS LAW

12 By /s/ Dominique R. Scalia
13 Daniel J. Bugbee, WSBA No. 42412
14 Dominique R. Scalia, WSBA No. 47313
15 155 NE 100th Street, Suite 205
Seattle, WA 98125
Attorneys for Debtor

16 Approved as to form; notice of presentation waived:

17 Lane Powell
18

19 /s/ Gregory Fox (via email authority)
20 Gregory Fox, WSBA No. 30559
21 Attorneys for First Federal Bank

22 Buchalter
23

24 /s/ Adam Doupe (via email authority)
25 Adam Doupe, WSBA No. 55483
26 Attorneys for Socotra REIT I, LLC

1 K&L Gates

2
3 /s/ John Bender (via email authority)

John Bender, WSBA No. 49658

4 Proposed Attorneys for Official Committee of Unsecured Creditors

5
6 LASHER HOLZAPFEL
SPERRY & EBBERSON PLLC

7
8 /s/ Sean V. Small (via email authority)

Sean V. Small, WSBA #37018

9 Paul J. Spadafora, WSBA #49777

Julie M. Pendleton, WSBA #52882

10 Attorneys for Creditor 3|5|2 CAPITAL GP LLC,
11 on behalf of 3|5|2 CAPITAL ABS MASTER FUND, LP

12
13 HERBERT SMITH FREEHILLS
NEW YORK LLP

14 /s/ Peter J. Behmke (via email authority)

15 Scott S. Balber (PHV pending)

Peter J. Behmke (PHV pending)

16 Michael P. Jones (PHV pending)

17 Attorneys for Creditor 3|5|2 CAPITAL GP LLC,
on behalf of 3|5|2 CAPITAL ABS MASTER FUND, LP